

### REMARKS

In the Office Action all of the pending claims 1-12 have been rejected for either being anticipated by, or obvious in view of, U.S. Pat. No. 4,901,718 (hereinafter referred to as Bille).

In response, Applicant has amended the pending claims to require steering of the laser beam to successive focal points in a same x-y plane. Further, the claims require concerted rotations of the first, second and third scanning mechanism through respective angles  $\theta$ ,  $2\theta$ , and  $\phi$  for this steering. Support for the amendments is found in [006].

Amendments to the claims have been made to improve the readability of the claims, to more clearly define the structure of the present invention, and to point out the features which distinguish this invention over the cited art. Claims 1-12 remain pending.

### Rejections under 35 USC § 102

Claims 1-6 and 8-11 have been rejected for being anticipated by Bille. Claim 1, however, is the only pending independent claim. Accordingly, the amendments to claim 1 and the arguments presented here apply to all of the pending claims.

As now amended, claim 1 clearly requires the concerted control of three scanning mechanisms (i.e. the first, second and third scanning mechanisms). Importantly, the cooperation of all three scanning mechanisms is required to maintain the laser beam substantially centered on the optical components of the system (see [004]). Thus, compensation is provided for the laser beam. Further, as now clearly

recited in amended claim 1, focal point movements for the compensated laser beam are accomplished within a *single* (emphasis added) x-y plane. Bille provides no disclosure for such a structure (i.e. three scanning mechanisms) or cooperation of structure (i.e. a compensated laser beam).

Unlike the present invention, Bille discloses a system for uncompensated x-y scanning using two galvanometric mirrors (see col. 4, lns 34-39). Also, Bille discloses additional optics that can reposition the entire optical channel with respect to the topography of an eye (see col. 5, lns 54-56). But, this repositioning does not result in scanning or any compensation for the laser beam. Thus, Bille effectively discloses a combination of two different operations (i.e. scanning and repositioning). One operation is the uncompensated x-y scanning of the laser beam within an optical channel (see col. 4, lns 36-39). The other operation is a repositioning (reorientation) of the optical channel and laser beam, with respect to an eye (see col. 6, lns 4-7). Importantly, the repositioning (reorientation) of the optical channel does not cause a scanning of the focal point in an x-y plane. Instead, it effectively establishes a different x-y plane. Consequently, Bille does not provide for the compensation of the x-y scanning mechanisms that is now required for the present invention.

For the reasons set forth above, Applicant contends the bases for rejecting claims for being anticipated by Bille have been overcome and should be withdrawn.

Rejections under 35 USC § 103

Claims 7 and 12 have been rejected for being unpatentable over Bille.

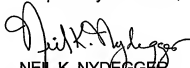
The arguments above that have been presented in response to the rejections for anticipation are applicable here. Specifically, Bille does not teach or suggest the combination of three different scanning mechanisms to maintain a laser beam substantially centered on the optical components of a system as now required for the present invention.

For the reasons set forth above, Applicant contends the bases for rejecting claims for being unpatentable have been overcome and should be withdrawn.

In conclusion, Applicant respectfully asserts that claims 1-12 are patentable for the reasons set forth above, and that the application is now in a condition for allowance. Accordingly, an early notice of allowance is respectfully requested. The Examiner is requested to call the undersigned at 619-688-1300 for any reason that would advance the instant application to issue.

Dated this 24<sup>th</sup> day of September, 2008.

Respectfully submitted,



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